



CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS

NO. 267

REVIEW OF ANTI-DUMPING MEASURES
HOLLOW STRUCTURAL SECTIONS
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA
BY
TIANJIN YOUFA STEEL PIPE GROUP CO LTD

4 May 2015

SEF 267 Hollow Structural Sections – China

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ABBREVIATIONS

ACBPS	Australian Customs and Border Protection Service
The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant	Tianjin Youfa Steel Pipe Group Co Ltd
ATM	Australian Tube Mills Pty Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
China	The Republic of China
Minister	The Minister for Home Affairs
Orrcon	Orrcon Operations Pty Ltd
SEF	Statement of Essential Facts
the goods	Hollow Structural Sections as described in section 3.3
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry and Science
Tianjin Youfa	Tianjin Youfa Steel Pipe Group Co Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Summary

This review is in response to an application from Tianjin Youfa Steel Pipe Group Co Ltd (Tianjin Youfa) to review the anti-dumping measures in the form of a dumping duty notice and countervailing duty notice applying to certain hollow structural sections (HSS)¹ exported to Australia from the People's Republic of China (China) as they apply to Tianjin Youfa.

The application for review is based on a change in the variable factors relevant to the taking of the anti-dumping measures in relation to Tianjin Youfa. The variable factors relevant to the review are the normal value, export price, non-injurious price (NIP), and the amount of countervailable subsidy. The application states that the normal value and export price have changed.

Tianjin Youfa is covered by the anti-dumping measures applying to 'All Other Exporters' of HSS from China. The applicant advised that it did not export HSS to Australia during the original investigation period but did export between the end of the investigation period and the date of the statement of essential facts for the original investigation. Therefore, Tianjin Youfa is not eligible to apply for an accelerated review of the measures under Division 6 of Part XVB of the *Customs Act 1901* (the Act)² and has applied for a review of measures under Division 5 of Part XVB of the Act.

This Statement of Essential Facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Parliamentary Secretary to the Minister for Industry and Science (Parliamentary Secretary)³.

1.2 Proposed recommendation

The Commissioner proposes to recommend to the Parliamentary Secretary that the dumping duty notice and countervailing duty notice have effect in relation to Tianjin Youfa as if different variable factors had been ascertained.

1.3 Final report

The Commissioner's final report and recommendations must be provided to the Parliamentary Secretary by **17 June 2015** or within such longer period as the Parliamentary Secretary allows.⁴

¹ Refer to the full description of the goods in section 3.3 of this report.

² A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

³ The Minister for Industry and Science has delegated responsibility for anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision-maker for this review of anti-dumping measures.

⁴ Subsection 269ZDA(1).

2 BACKGROUND

2.1 Initiation

On 20 August 2014, Tianjin Youfa lodged an application requesting a review of the anti-dumping measures as they apply to Tianjin Youfa's exports of HSS to Australia under Division 5 of Part XVB of the Act. Tianjin Youfa claims that certain variable factors relevant to the taking of the anti-dumping measures have changed.

Tianjin Youfa's application sought to review variable factors pertaining to Tianjin Youfa only. The Commission examined the application and decided not to reject the application. As a result Consideration Report 267 (CON 267) was published on the Commission's website.

On 30 September 2014, the Commissioner initiated a review of the anti-dumping measures in respect of HSS as they apply to Tianjin Youfa. The review is limited to examining whether the variable factors, relevant to the taking of the anti-dumping measures as they affect Tianjin Youfa, have changed.

Notification of the initiation of the review was made in *The Australian* newspaper on 30 September 2014 and Anti-Dumping Notice (ADN) 2014/93. The review period for the purpose of this review is the period from 1 July 2013 to 30 June 2014.

2.2 Previous case

On 19 September 2011, following an assessment of an application made by OneSteel Australian Tube Mills Pty Ltd (ATM), the Australian Customs and Border Protection Service (ACBPS) initiated investigations into:

- the alleged dumping of certain HSS exported to Australia from the People's Republic of China (China), Korea, Malaysia, the Kingdom of Thailand (Thailand) and Taiwan; and
- the alleged subsidisation of certain HSS exported to Australia from China.

These investigations were collectively numbered 'Investigation 177'.

Notification of initiation of Investigation 177 was made in *The Australian* newspaper on 19 September 2011, and Australian Customs Dumping Notice (ACDN) 2011/43, providing further details of the investigation, was issued on the same day.

After earlier terminating the investigation as it related to Thailand and certain Chinese exporters on 7 June 2012, ACBPS provided its final report and recommendations to the then Minister for Home Affairs (Minister) in *Australian Customs and Border Protection Report to the Minister No. 177 (REP 177)* in relation to the remainder of Investigation 177.

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In that report, in relation to dumping, ACBPS concluded that:

- HSS exported from China to Australia was dumped with margins between 10.1% and 57.1%;
- HSS exported from Korea to Australia was dumped with margins between 3.2% and 8.9%;
- HSS exported from Malaysia to Australia was dumped with margins between 3.0% and 20.0%;
- HSS exported from Taiwan to Australia was dumped with margins between 2.4% and 5.3%;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

In making its findings in relation to dumping, ACBPS determined that there was a market situation⁵ in the Chinese domestic HSS market during the investigation period of 1 July 2010 to 30 June 2011, which rendered domestic sales of HSS in China unsuitable for use in determining normal values under subsection 269TAC(1) of the Act.

In relation to countervailing, the ACBPS concluded that 26 countervailable subsidies had been received by Chinese exporters of HSS. Subsidy margins of between 2.2 and 54.8 per cent were found for HSS exported from China to Australia by all exporters except for exports by Huludao City Steel Pipe Industrial Co., Ltd (Huludao) and Qingdao Xiangxing Steel Pipe Co., Ltd (Qingdao Xiangxing).

The Minister published a dumping duty notice imposing dumping duties on the goods exported to Australia from China, Korea, Malaysia and Taiwan⁶ and a countervailing duty notice imposing countervailing duties on the goods exported to Australia from China (excluding Huludao and Qingdao)⁷ in *The Gazette* and *The Australian* on 3 July 2012.

Tianjin Youfa did not export the goods during the investigation period relevant to that investigation and was therefore not named in the notice. Consequently, Tianjin Youfa is subject to the interim dumping duty (IDD) and interim countervailing duty (ICD) applicable to all other exporters of the goods from China. The effective rate of combined IDD and ICD that is applicable to Tianjin Youfa for different finishes of HSS is:

- | | |
|-------------------------|--------|
| • Black | 100.8% |
| • Pre-galvanised | 43.9% |
| • Hot dipped galvanised | 100.8% |
| • Painted | 99.5% |
| • Other | 43.9% |

⁵ Subsection 269TAC(2)(a)(ii).

⁶ Subsections 269TG(1), 269TG(2).

⁷ Subsection 269TJ(2).

The decision by the Minister to publish a dumping duty notice and a countervailing duty notice was the subject of review by the former Trade Measures Review Officer⁸ and subsequently, reinvestigation by the ACBPS.

The reinvestigation resulted in the ACBPS recommending to the Minister that the dumping duty notice and countervailing duty notice remain in place with an alteration of the amount of IDD applicable to the exports of one Chinese exporter (Dalian Steelforce Hi-Tech Co Ltd). The Minister accepted this recommendation.

2.3 Review of Measures

If anti-dumping measures have been taken in respect of certain goods, an affected party who considers it may be appropriate to review those measures as they affect a particular exporter of those goods or as they affect exporters of those goods generally, may apply for a review of those measures because one or more of the variable factors relevant to the taking of the measures in relation to that exporter or those exporters have changed.⁹ The Parliamentary Secretary may also request that the Commissioner initiate a review at any time.¹⁰

A review application may not be lodged earlier than twelve months after publication of the notice implementing the original anti-dumping measures or the notice(s) declaring the outcome of the last review of the notice(s).¹¹

If an application for a review of anti-dumping measures is received and not rejected, the Commissioner has up to 155 days, or such longer time as the Parliamentary Secretary may allow, to conduct a review of anti-dumping measures and report to the Parliamentary Secretary¹². Within 110 days of the initiation, or such longer time as the Parliamentary Secretary may allow, the Commissioner must place on the public record an SEF on which he proposes to base recommendations to the Parliamentary Secretary concerning the review of the anti-dumping measures¹³.

In making recommendations in his final report to the Parliamentary Secretary, the Commissioner must have regard to:

- the application for a review of the anti-dumping measures;
- any submission relating generally to the review of the anti-dumping measures to which the Commissioner has had regard for the purpose of formulating the SEF;
- this SEF; and

⁸ This review function is now performed by the Anti-Dumping Review Panel.

⁹ Subsection 269ZA(1).

¹⁰ Subsection 269ZA(3).

¹¹ Subsection 269ZA(2)(a).

¹² Subsection 269ZDA(1).

¹³ Subsection 269ZD(1).

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- any submission made in response to this SEF that is received by the Commissioner within 20 days of it being placed on the public record.¹⁴

The Commissioner may also have regard to any other matters that the Commissioner considers relevant to the review.¹⁵

During the course of a review, the Commission will examine whether the variable factors have changed. Variable factors in this particular review are a reference to:

- the ascertained export price;
- the ascertained normal value;
- the amount of the countervailable subsidy; and
- the NIP.¹⁶

At the conclusion of a review of anti-dumping measures, the Commissioner must provide a final report that makes a recommendation to the Parliamentary Secretary that the dumping duty notice and/or countervailing notice¹⁷:

- remain unaltered; or
- be revoked in its application to a particular exporter or to a particular kind of goods or revoked generally; or
- have effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.

Following the Parliamentary Secretary's decision, a notice will be published advising interested parties of the decision.

2.4 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base final recommendations to the Parliamentary Secretary.

The SEF represents an important stage in the review. It informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner. Interested parties have 20 days to respond to the SEF. The Commissioner will consider these responses in making his final report to the Parliamentary Secretary. The report will recommend whether or not the dumping duty notice and countervailing duty notice should be varied, and the extent of any interim duties that are, or should be, payable.

¹⁴ Subsection 269ZDA(3)(a).

¹⁵ Subsection 269ZDA(3)(b).

¹⁶ Subsection 269(4E).

¹⁷ Subsection 269ZDA(1)(a).

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Responses to this SEF should be received by the Commissioner no later than **23 May 2015**. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Parliamentary Secretary.¹⁸

The Commissioner must report to the Parliamentary Secretary by 17 June 2015.

Submissions should preferably be emailed to operations1@adcommission.gov.au.

Alternatively, they may be sent to fax number 03 8539 2499 or mailed to:

Director Operations 1
Anti-Dumping Commission
Level 35, 55 Collins Street
Melbourne VIC 3000
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record.

A guide for making submissions is available on the Commission's web site www.adcommission.gov.au.

The Public Record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The public record can be viewed online at www.adcommission.gov.au, or alternatively, physical copies of the Public Record can be viewed by request at the Commission's Melbourne office (phone 13 28 46 to make an appointment). Documents on the Public Record should be read in conjunction with this SEF.

¹⁸ Subsection 269ZDA(4).

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commission considers the Australian industry produces HSS that have characteristics closely resembling those of the goods under consideration, and therefore, HSS manufactured by the Australian industry are considered like goods.¹⁹

3.2 Legislative framework

The Commissioner must be satisfied that the “like” goods are in fact produced in Australia. Subsection 269T(2) of the Act specifies that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In accordance with subsection 269T(3) of the Act, for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

3.3 The goods

The goods subject to the measures (the goods) are:

certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21mm up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm.

The following additional information is provided to clarify the goods covered by the measures.

- **Finishing**

All HSS regardless of finish is included in the goods.

Non-galvanised HSS is typically of painted, black, lacquered or oiled finished coatings.

Circular hollow sections with other than plain ends (such as threaded, swaged and shouldered) are also included in the application.

¹⁹ In accordance with the definition of ‘like goods’ under subsection 269T(1).

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- **Standards**

HSS is generally produced to either the British Standard BS 1387, the Australian Standard AS 1163 or international equivalent standards (including ASTM International, Japanese Industry Standards and Korean Industrial Standards).

HSS can also be categorised according to minimum yield strength. The most common classifications are 250 and 350 mega Pascals.

HSS may also be referred to as extra-light, light, medium or extra heavy according to its wall thickness.

- **Excluded goods**

The following categories are excluded from the goods:

- conveyor tube (made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface), and out of round standards (i.e. ovality) which do not exceed 0.6 mm in order to maintain vibration free rotation and minimum wind noise during operation);
- precision rectangular or square hollow sections with a nominal thickness of less than 1.6mm (is not used in structural applications); and
- air heater tubes made to Australian Standard 2556.

- **'Structural' sections**

For clarification, the goods subject to the measures include all electric resistance welded pipe and tube made of carbon steel meeting the above description of the goods (and exclusions), regardless of whether or not the pipe or tube meets a specific structural standard or is used in structural applications.

3.4 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);
- 7306.61.00 (statistical codes 21, 22, and 25); and
- 7306.69.00 (statistical code 10).

The goods exported to Australia from China are subject to a 4% rate of duty.

3.5 Like goods produced by the Australian industry

During the original investigation, ACBPS found that:

- there was an Australian industry producing like goods;
- a substantial process of manufacture was carried out in Australia in producing the like goods;

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- the like goods were wholly manufactured in Australia; and
- there was an Australian industry consisting of four Australian companies that produce like goods in Australia.

The Commission remains satisfied that there is an Australian industry producing like goods.

4 EXPORTER INFORMATION

4.1 Exporter questionnaire

The Commission provided Tianjin Youfa with an exporter questionnaire to complete. The due date for a response was 10 November 2014. A seven day extension was granted to Tianjin Youfa and its response to the exporter questionnaire was received by the Commission on 17 November 2014. The response included information concerning the Tianjin Youfa group, domestic sales, costs to make and sell (CTMS) and subsidies.

4.2 General

Tianjin Youfa provided information in its response to the exporter questionnaire that identified a number of related but separate legal entities involved in the manufacture and sale of HSS in China. It also explained that it is a privately owned corporation limited by shares.

In its response to the exporter questionnaire, Tianjin Youfa stated that the following two branches and six subsidiaries of Tianjin Youfa produce and sell HSS:

Branches:

- Tianjin Youfa Steel Pipe Group Co., Ltd – No. 1 Branch (Branch No.1); and
- Tianjin Youfa Steel Pipe Group Co., Ltd – No. 2 Branch (Branch No.2);

Subsidiaries:

- Tianjin Shiyou Steel Pipe Manufacture Co., Ltd. (Shiyou);
- Tianjin Youfa Dezhong Steel Pipe Co., Ltd. (Dezhong);
- Tangshan Fengnan Xinlida Steel Pipe Co., Ltd. (Xinlida);
- Tangshan Youfa Steel Pipe Manufacture Co., Ltd. (Tangshan Youfa);
- Tangshan Zhengyuan Steel Pipe Co., Ltd. (Zhengyuan); and
- Handan Youfa Steel Pipe Co., Ltd (Handan Youfa).

A diagram of the group structure and intragroup transactions of black HSS is at **Confidential Appendix 1**.

Tianjin Youfa stated it also produces other types of steel pipes that are not under review.

4.3 Reliability of data supplied by Tianjin Youfa

The Commission elected not to conduct an on-site verification of the information and data provided in Tianjin Youfa's response to the exporter questionnaire. Tianjin Youfa has been fully cooperative during the review and has provided detailed financial data in response to its exporter questionnaire.

The Commission has various other means for testing the accuracy, relevance and reliability of data to a satisfactory level. A number of tests have been undertaken on Tianjin Youfa's data for the purpose of this review. Based on these testing methods, the Commission is satisfied as to the accuracy of the data supplied by Tianjin Youfa upon

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which the findings of this review are based. The key tests of relevance and reliability undertaken by the Commission in relation to the data submitted by Tianjin Youfa are outlined below.

Comparison to data verified in Investigation 177

The Commission has, where possible, compared the data provided by Tianjin Youfa in the review to data provided by exporters of HSS from China and verified by the ACBPS for the purposes of the original investigation. The Commission has ensured the same methodologies have been employed to maintain a consistent approach to ascertaining the variable factors.

ACBPS Database

Tianjin Youfa stated that they did not export the goods to Australia during the review period. The Commission's analysis of the ACBPS database confirms that Tianjin Youfa did not make any export sales of the goods to Australia during the investigation period.

Independent sources of information

The Commission has made independent inquiries into the movements in price for hot rolled coil, which is used in the production of HSS. The Commission indexed the benchmark price established in Investigation 177 through to the end of the review period and compared the prevailing East Asian prices for hot rolled coil, indexed through to the end of the review period. The comparison showed the movements from original investigation period to the review period exhibited a significant correlation.

These analyses supported the relevance and reliability of the Tianjin Youfa data submitted for the purpose of the review.

4.4 Like goods produced and sold in China by Tianjin Youfa

Based on the information provided by Tianjin Youfa in its response to the exporter questionnaire, the Commission is satisfied that the HSS it sold on the domestic market in China in the review period possesses similar physical characteristics, has similar uses, and has similar manufacturing processes to the HSS subject to the dumping duty notice and countervailing duty notice.

5 VARIABLE FACTORS – DUMPING DUTY NOTICE

5.1 Finding

The Commissioner finds that the variable factors relevant to the taking of anti-dumping measures in relation to HSS exported to Australia by Tianjin Youfa have changed.

5.2 Market situation assessment

As a result of the original investigation, the ACBPS found a situation in the market in China such that sales in that market are not suitable for use in determining a value under subsection 269TAC(1)²⁰. This finding was subsequently confirmed following Reinvestigation 203²¹. The Commission notified interested parties at the initiation stage of this review that it would not reassess whether there was a market situation (ADN 2014/93).

An assessment of the market situation in China is detailed at Appendix A of REP 177 on the electronic public record. For this review, the Commission has not departed from the approach taken in the original investigation and the calculation of normal value has again been determined under subsection 269TAC(2)(c).

5.3 Reasonableness of HSS costs

As a result of the original investigation, the ACBPS found that the costs incurred by HSS manufacturers in China for hot rolled coil and narrow strip used in the manufacture of HSS during the investigation period did not reasonably reflect competitive market costs in terms of Regulation 180(2) of the *Customs Regulations 1926*.²² The Commission notified interested parties at the initiation stage of this review that it would not reassess this matter (ADN 2014/93).

An assessment of the reasonableness of costs of HSS manufactured in China is provided at section 6.4 of REP 177. For this review, the Commission has not departed from the approach taken in the original investigation, in that certain costs incurred by Tianjin Youfa have been replaced in determining normal value under subsection 269TAC(2)(c).

5.4 Export price

Tianjin Youfa did not export the goods to Australia during the review period. As such, sufficient information is not available to determine the export price of the goods using:

- the price paid or payable by the importer;
- the price in Australia less prescribed deductions; or
- the price having regard to all the circumstances of the exportation.²³

²⁰ Under subsection 269TAC(2)(a)(ii).

²¹ Refer to *International Trade Remedies Branch Report to the Minister No. 203*

²² REP 177, p. 39. This is now subsection 43(2) *Customs (International Obligations) Regulation 2015*.

²³ Subsection 269TAB(1)(a)-(c).

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The Commission considers it appropriate to determine an export price, for the purpose of this review, having regard to all relevant information.²⁴ Specifically, the Commission considers it appropriate to determine the ascertained export price to be the same amount as that determined to be the normal value for the purposes of the review. This price is at ex works (EXW) delivery terms.

5.5 Normal value

For this review, the normal value has been established in accordance with subsection 269TAC(2)(c) at EXW delivery terms, using Tianjin Youfa's cost of production of the goods, amounts determined for administrative, selling and general costs associated with the sales and the profit associated with those sales.²⁵

The domestic sales data submitted by Tianjin Youfa showed that it made sales of HSS in China in the review period that were in two finishes - black and hot-dipped galvanised (HDG). A weighted average normal value was first constructed for black HSS produced and sold by Tianjin Youfa based on cost of production and administrative, selling and general expenses and profit, which are detailed below. An additional amount was applied to this value to determine a normal value for HDG HSS, where that additional amount was based on the difference in sale price of domestic sales of black and HDG HSS sold in the ordinary course of trade. This amount was a weighted average price difference, calculated as a percentage. A single normal value was then determined based on the weighting of Tianjin Youfa's domestic sales proportions of black HSS and HDG HSS.

5.5.1 Cost of production

Tianjin Youfa's cost of production included costs for raw material that, due to the identified situation in the market, the Commission considers do not reasonably reflect competitive market costs²⁶. As such, in determining cost of production, the Commission has used an amount for raw material based on a benchmark that reasonably reflects competitive market costs. The benchmark used is the same benchmark determined in the original investigation which has been indexed to the review period. The indexation is based on the change in the East Asian import price of hot-rolled coil since the original investigation, which has demonstrated that the benchmark cost of raw material has decreased since the original investigation by 26% in terms of US dollars.

Cost of production per tonne was determined for the goods for each branch and subsidiary and for each quarter of the review period.

5.5.2 Administrative, selling and general costs and profit

Tianjin Youfa provided the Commission information on selling, administration and financial costs that related to domestic sales of the goods in the review period. In

²⁴ Subsection 269TAB(3).

²⁵ *Customs Regulations 1926, Regulations 181-181A. These are now sections 44 and 45 of the Customs (International Obligations) Regulation 2015.*

²⁶ *Customs Regulations 1926, Regulation 180(2). This is now subsection 43(2) of the Customs (International Obligations) Regulation 2015.*

constructing a normal value, these costs were applied on a per tonne basis respectively to each entity, for each quarter of the review period.

As per the original investigation, a positive adjustment²⁷ to the constructed normal value has been applied to account for the difference in the amount of residual value added tax (VAT) that would apply to export sales of the goods. The residual amount has been calculated at the rate of 8%, which is the full VAT rate of 17% less the 9% VAT rebate that applies to export sales of the goods.

A weighted average profit margin was calculated for the goods for each branch and subsidiary, for each quarter of the review period. The calculation of this margin was based on sales of HSS in the ordinary course of trade. These amounts were applied respectively to each entity and quarter of the review period in constructing the normal value.

It is noted that the construction of normal value under subsection 269TAC(2)(c) has been undertaken in accordance with Regulations 180, 181 and 181A of the *Customs Regulations 1926*²⁸, as required by subsections 269TAC(5A) and 269TAC(5B) of the Act.

Details of normal value calculation are at **Confidential Appendix 2**.

5.6 Dumping margin

A calculation of dumping margin is not required for the purpose of reviewing variable factors. For this review, as the ascertained export price is to be the same amount as that determined to be the normal value, the dumping margin applicable is zero.

5.7 Non-injurious price

5.7.1 General

Under section 8 of the *Customs Tariff (Anti-Dumping) Act 1975*, the Parliamentary Secretary must have regard to the desirability of ensuring that the amount of dumping duty is not greater than is necessary to prevent injury or a recurrence of the injury. Subsection 269TACA(a) of the Act identifies the NIP of the goods exported to Australia as the minimum price necessary to remove the injury caused by the dumping.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP). Deductions from this figure are made for post-exportation costs to the relevant level of trade in Australia.

5.7.2 Submissions

Orrcon Operations Pty Ltd (Orrcon), an Australian manufacturer of the goods, stated in its submission dated 22 December 2014, that the same methodology used in the original

²⁷ Subsection 269TAC(9).

²⁸ These are now sections 43-45 of the *Customs (International Obligations) Regulation 2015*.

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investigation to calculate a USP, should be applied in the review. Orrcon described the methodology to be the Australian industry's CTMS plus a level of profit.

ATM's submission dated 22 December 2014, supports adopting the methodology used in the original investigation to calculate the NIP. ATM proposed that the USP be based on the Australian CTMS in the current review period, plus profit in 2008.

5.7.3 Assessment of NIP

During the original investigation, ACBPS determined the USP utilising Australian industry's CTMS for the investigation period plus an amount for profit during the period of January to September 2008. ACBPS chose January to September 2008 as the period to calculate profit because material injury, if any, to the Australian industry was negligible during that period. A separate USP was calculated by finish and the NIP for each finish was then calculated by deducting amounts for post exportation costs. The methodology was not subject to reinvestigation.

For the purpose of this review, a weighted average USP has been determined based on verified ATM CTMS data during the review period plus an amount of profit achieved by Australian industry in the period of January to September 2008. The NIP has been calculated to EXW delivery terms by deducting from the USP amounts for:

- importer profit;
- importer expenses;
- Australian customs duty, port charges, delivery commission, storage and handling;
- overseas freight and insurance; and
- Chinese local transport, port charges and handling costs.

These deductions were based on data provided by verified exporters of the goods in China in the original investigation and current data of exporters of the goods in China and are expressed as a percentage of USP. This approach is consistent with the approach taken in REP 177.

NIP calculations are at **Confidential Appendix 3**.

6 VARIABLE FACTORS - COUNTERVAILING DUTY NOTICE

The Commission has determined the countervailable subsidy margin applicable to Tianjin Youfa in the review period to be 0.1%.

The Commissioner will recommend to the Parliamentary Secretary that the countervailing duty notice apply to HSS exported to Australia from China by Tianjin Youfa with a countervailing duty rate of 0.1%.

6.1 Programs reviewed

The ACBPS found in the original investigation that countervailable subsidies had been received in respect of HSS exported to Australia from China, under 28 subsidy programs. The Commission requested Tianjin Youfa provide data and information regarding all subsidies they received during the review period as part of its response to the exporter questionnaire.

After assessing all relevant available information and the data provided by Tianjin Youfa, the Commission found that countervailable subsidies have been received in respect of HSS produced by Tianjin Youfa under the following subsidy programs:

Program	Countervailable in relation to HSS (Yes/No)
Program 7: Research & Development (R&D) Assistance Grant	Yes
Program 29: Land Use Tax Deduction	Yes
Program 32: Technology Project Assistance	Yes
Program 35: Preferential Tax Policies for High and New Technology Enterprises	Yes

The Commission has therefore determined that during the review period, Tianjin Youfa has received a benefit from a number of financial contributions²⁹ in respect of the goods. A subsidy margin has been calculated with reference to the data and information provided by Tianjin Youfa in its response to the exporter questionnaire. The subsidy margin is expressed as a percentage of the ascertained export price. The methodology employed to establish the subsidy margin is consistent with the methodology employed in the original investigation.

6.2 Program 20

The original investigation established that a subsidy program existed whereby the Government of China provided hot rolled coil and/or narrow strip (hot rolled steel), as is used in the manufacture of HSS, to manufacturers at less than adequate remuneration. In

²⁹ Subsections 269TACC(2)(a)-(b).

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the original investigation, the program was known as 'Program 20'. Program 20 has not been reassessed as part of the review.³⁰

The Commission has not, for the purpose of this review, reassessed whether or not such a program exists. The Commission has quantified an amount of the countervailable subsidy for Program 20 by comparing the actual cost incurred for hot rolled steel inputs to the benchmark amount discussed in section 5.5.1. The Commission considers that this subsidy should not be countervailed because to do so would be double counting for the same situation. This is because, where the ascertained normal value is equal to the ascertained export price, the maximum amount of the countervailable subsidy is equal to the difference between the actual cost of hot rolled steel and the replacement cost of hot rolled steel used in constructing normal value (when measured on a weighted average basis). This difference has already been incorporated in the constructed normal value.

Therefore, in order to avoid any double count of dumping duty and countervailing duty in this situation, the Commission has ascertained a final subsidy margin less an amount for the subsidy rate applying to Program 20.

The calculation of the subsidy margin is at **Confidential Appendix 4**.

³⁰ Anti-Dumping Notice No. 2014/93 (1 October 2014) <<http://www.adcommission.gov.au/cases/Documents/003-ADN-2014-34-HSS-InitiationofareviewofAnti-DumpingMeasures.pdf>>.

7 EFFECT OF THE REVIEW

The Commissioner has found that, in relation to exports to Australia of HSS from China by Tianjin Youfa during the review period:

- the ascertained export price has changed;
- the ascertained normal value has changed;
- the NIP has changed;
- the dumping margin was zero; and
- the amount of the countervailable subsidy has changed.

The Commissioner has also found that the NIP was greater than the normal value of the goods exported by Tianjin Youfa during the review period and should therefore not be the operative measure³¹ for HSS exported by Tianjin Youfa.

Consequently, the Commissioner proposes to recommend to the Parliamentary Secretary that the interim dumping duty payable is an amount which will be worked out in accordance with the combination of fixed and variable duty method pursuant to subregulation 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*. This is consistent with the method used in the original dumping duty notice. Therefore, the dumping duty payable comprises a fixed component that is zero, and a variable component that will be payable if the actual export price is below the ascertained export price which is a specified (confidential) amount per tonne. The Commissioner further proposes to recommend to the Parliamentary Secretary that interim countervailing duty will be payable reflecting the subsidy margin of 0.1%.

A summary of the effect of changed variable factors on the anti-dumping measures is at **Confidential Attachment 5**.

³¹ The operative measure is the lesser of the normal value or non-injurious price.

8 LIST OF APPENDICES

Confidential Appendix 1	Group structure diagram
Confidential Appendix 2	Normal value calculation
Confidential Appendix 3	Subsidy margin calculation
Confidential Appendix 3	NIP calculation
Confidential Appendix 5	Anti-dumping measures